

**Docketing Statement – Civil Appeal**

---

**IN THE COURT OF APPEALS OF THE STATE OF KANSAS**

League of Women Voters of Kansas,  
et al., Plaintiffs  
vs.  
Scott Schwab - Kansas Secretary of  
State, et al., Defendants

County Appealed From: Shawnee County District Court  
District Court Case No(s): 2021-CV-000299  
Proceeding Under Chapter: 60  
Party Filing Appeal: League of Women Voters of Kansas;  
Loud Light; KS Appleseed Center for Law & Justice, Inc;  
Topeka Independent Living Resource Center, Charley  
Crabtree, Patricia Lewter, Faye Huelsmann (Plaintiffs)  
Party or Parties Who Will Appear as Appellees: Scott  
Schwab, in his official capacity as Kansas Secretary of  
State, and Derek Schmidt, in his official capacity as  
Kansas Attorney General (Defendants)

**DOCKETING STATEMENT - CIVIL**

The docketing statement is used by the court to determine jurisdiction and to make calendar assignments under Rules 7.01(c) and 7.02(c). This is not a brief and should not contain argument or procedural motions.

1. **Civil Classification:** From the list of civil topic sub-types listed at the end of this form, choose the **one** which best describes the **primary** issue in this appeal.  
Constitutional Law
  
2. **Proceedings in the District Court:**
  - a. Trial judge from whose decision this appeal is taken: Teresa L. Watson
  - b. List any other judge who has signed orders or conducted hearings in this matter:  
N/A
  - c. Was this case disposed of in the district court by:  
 Jury trial  
 Bench trial  
 Summary judgment  
 Dismissal  
 Other
  - d. Length of trial, measured in days (if applicable): N/A

e. State the name of each court reporter or transcriptionist who has reported or transcribed any or all of the record for the case on appeal. (This is not a substitute for a request for transcript served on the individual reporter or transcriptionist under Rule 3.03.)

N/A

f. State the legal name of all entities that are NOT listed in the case caption (including corporations, associations, parent, subsidiary, or affiliate business entities) but are parties or have a direct involvement in the case on appeal:

N/A (all parties listed on first page)

g. State the name, address, telephone number, fax number, and e-mail address of every attorney who represented a party in district court if that attorney's name does NOT appear on the certificate of service attached to this docketing statement. Clearly identify each party represented.

Amanda R. Callais\*

Tyler Bishop\*

Perkins Coie LLP

Elias Law Group LLP

700 Thirteenth St. NW, Suite 800

10 G Street NE, Suite 600

Washington, DC, 20005

Washington, DC 20002

Telephone: (202) 654-6200

Telephone: (202) 968-4513

Facsimile: (202) 654-9959

Facsimile: (202) 968-4498

acallais@perkinscoie.com

tbishop@elias.law

Counsel for Plaintiffs

Counsel for Plaintiffs

\**Appeared Pro Hac Vice. Note: Amanda R. Callais is no longer at Perkins Coie or representing any client in this matter.*

3. **Jurisdiction:**

a. Date journal entry, judgment form, or other appealable order filed:

4/11/2021

b. Is the order appealed from a final order, *i.e.*, does it dispose of the action as to all claims by all parties?

No

c. If the order is not a final disposition as to all claims by all parties, did the district court direct the entry of judgment under K.S.A. 60-254(b)?

No

If not, state the basis on which the order is appealable.

K.S.A. 60-2102(a)(2) (authorizing appeal as of right from "an order that . . . refuses . . . an injunction"), (a)(3) (authorizing appeal as of right from "an order involving . . . the constitution of this state")

d. Date any posttrial motion filed:

N/A

e. Date disposition of any posttrial motion filed:

N/A

f. Date notice of appeal filed in district court:

4/11/2022

(amended 4/22/2022)

g. Other relevant dates necessary to establish this court's jurisdiction to hear the appeal, *i.e.*, decisions of administrative agencies or municipal courts and appeals therefrom:

N/A

- h. Statutory authority for appeal: K.S.A. 60-2102(a)(2), (3)
- i. Are there any proceedings in any other court or administrative agency, state or federal, which might impact this case or this court having jurisdiction (yes or no)?  
No  
 If "yes," identify the court or agency in which the related proceeding is pending.  
 List the case captions and the case or docket numbers.  
N/A

4. **Constitutional Challenges to Statutes or Ordinances:**

Was any statute or ordinance found to be unconstitutional by the district court (yes or no)? No  
 If "yes," what statute or ordinance? N/A

5. **Related Cases/Prior Appeals:**

- a. Is there any case now pending or about to be filed in the Kansas appellate courts which:
- (1) Arises from substantially the same case as this appeal (yes or no)? No  
 If "yes," give case caption and docket number.  
N/A
- (2) Involves an issue that is substantially the same as, similar to, or related to an issue in this appeal (yes or no)? No  
 If "yes," give case caption and docket number.  
N/A
- b. Has there been a prior appeal involving this case or controversy (yes or no)? Yes  
 If "yes," give case caption and docket number.  
League of Women Voters of Kansas et al. v. Schwab et al., No. 124378

6. **Brief statement (less than one page), without argument, of the material facts. This is not intended to be a substitute for the factual statement that will appear in the brief.**

At the end of the 2021 legislative session, the Kansas Legislature overrode the Governor's veto and enacted Senate Substitute for House Bill 2183 ("HB 2183"). Among other things, the law requires election officials to reject advance ballots returned by voters through the mail when they determine that the signature on the ballot envelope does not match the signature in the county election file (the "Signature Matching Requirement"), imposes a criminal ban on assisting more than 10 voters in delivering their advance voting ballots (the "Delivery Assistance Restriction"), makes it a crime to knowingly engage in conduct that gives the appearance of an election official or would cause another to believe as much (the "False Representation Offense"), and prohibits sending advance voting applications from out-of-state (the "Out of State Ban").

Plaintiffs-Appellants, four Kansas non-partisan voting rights organizations and three individuals, filed suit challenging the constitutionality of these restrictions. Plaintiffs-Appellants filed their Petition on June 1, 2021 and filed an Amended Petition on August 2, 2021. The Amended Petition details how each of the challenged provisions burdens Plaintiffs' fundamental rights. Plaintiffs-

Appellants sought an immediate temporary injunction against the False Representation Offense so that they could continue engaging in voter registration and education activities free from the fear of prosecution. The district court denied the motion on September 16, 2021, and the Court of Appeals heard oral arguments on the appeal of that Order on April 7, 2022.

The Secretary of State and the Attorney General (“Defendants-Appellees”) filed a motion to dismiss Plaintiffs-Appellants’ Amended Petition on August 23, 2021. Plaintiffs-Appellants filed an opposition to the motion on September 3, 2021. The Defendants-Appellees sought and received an extension on their time to file a Reply brief on the motion to dismiss, which they filed on October 1, 2021. On October 14, 2021, Plaintiffs-Appellants moved to strike arguments that were made for the first time in the Reply brief, which Defendants-Appellants opposed. On October 14, 2021, Plaintiffs also moved for a case management conference and for discovery to commence so that the case could be resolved ahead of the 2022 election. The Court denied the motion on November 1, 2021, informing the parties that further proceedings would be stayed until the Court resolved the motion to dismiss.

While the Defendants-Appellees’ motion to dismiss was pending, a federal court held that one of the four provisions challenged by Plaintiffs in this lawsuit, the Out-of-State Ban, violated the First Amendment to the U.S. Constitution, and the Defendants in that case (two of whom are the same Defendants-Appellees here) agreed to a permanent injunction enjoining its enforcement. Plaintiffs-Appellants therefore voluntarily dismissed their claims against that provision.

After waiting more than five months for the court’s resolution of the motion to dismiss, on April 7, 2022, Plaintiffs moved for a partial temporary injunction against the Signature Matching Requirement, presenting evidence of the likely irreparable harm, including disenfranchisement of eligible voters, that will occur in the 2022 elections absent temporary injunctive relief. Four days later, on April 11, 2022, the Court ruled on Defendants-Appellants’ August 23, 2021 motion to dismiss and Plaintiffs’ April 7, 2022 motion for a temporary injunction. The Court held that Plaintiffs-Appellants had failed to state claims against the Signature Matching Requirement and the Delivery Assistance Restriction, and denied Plaintiffs-Appellants’ motion for a temporary injunction as moot. Plaintiffs-Appellants filed a notice of appeal on April 11, 2022, the same day, and amended their notice of appeal on April 21, 2022.

**7. Concise statement of the issues proposed to be raised. You will not be bound by this statement but should include issues now contemplated. Avoid general statements such as “the judgment is not supported by the law.”**

- A) Did Plaintiffs-Appellants’ Amended Petition state claims that the Signature Matching Requirement violates the right to vote, due process, and equal protection under the Kansas Constitution?
- B) Did Plaintiffs-Appellants’ Amended Petition state claims that the Delivery Assistance Restriction violates the rights to free speech and association, and the right to vote?
- C) Did the district court err in denying Plaintiffs’ motion for temporary injunction against the Signature Matching Requirement?
- D) Are laws that infringe the fundamental right to vote presumed constitutional?
- E) Are laws that infringe the fundamental rights to free speech and association presumed constitutional?
- F) Does casting a ballot by mail give rise to a “protected liberty interest”?

/s/ Pedro L. Irigonegaray

Pedro L. Irigonegaray (#08079)

Nicole Revenaugh (#25482)

Jason Zavadil (#26808)

J. Bo Turney (#26375)

**IRIGONEGARAY, TURNEY, &  
REVENAUGH LLP**

1535 S.W. 29th Street

Topeka, KS 66611

(785) 267-6115

[pli@plilaw.com](mailto:pli@plilaw.com)

[nicole@itrlaw.com](mailto:nicole@itrlaw.com)

[jason@itrlaw.com](mailto:jason@itrlaw.com)

[bo@itrlaw.com](mailto:bo@itrlaw.com)

*Counsel for Plaintiffs*

Elisabeth C. Frost\*

Henry J. Brewster\*

Mollie DiBrell\*

Spencer McCandless\*

**ELIAS LAW GROUP LLP**

10 G Street NE, Suite 600

Washington, DC 20002

(202) 968-4513

[efrost@elias.law](mailto:efrost@elias.law)

[hbrewster@elias.law](mailto:hbrewster@elias.law)

[mdibrell@elias.law](mailto:mdibrell@elias.law)

[smccandless@elias.law](mailto:smccandless@elias.law)

*Counsel for Loud Light, Kansas Appleseed Center for  
Law and Justice, Topeka Independent Living Resource  
Center, Charley Crabtree, Faye Huelsmann, and Patricia  
Lewter*

David Anstaett\*

**PERKINS COIE LLP**

33 East Main Street, Suite 201

Madison, WI 53703

(608) 663-5408

[danstaeft@perkinscoie.com](mailto:danstaeft@perkinscoie.com)

*Counsel for League of Women Voters of Kansas*

*\*Pro Hac Vice Motions Forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was electronically transmitted by email on April 25, 2022, to:

Brad Schlozman  
Hinkle Law Firm  
1617 North Waterfron Parkway, Suite 400  
Wichita, KS 67206-6639  
Email: Bschlozman@hinklaw.com  
Attorney for Appellees Scott Schwab and Derek Schmidt

Scott Schillings  
Hinkle Law Firm  
1617 North Waterfron Parkway, Suite 400  
Wichita, KS 67206-6639  
Email: Sschillings@hinklaw.com  
Attorney for Appellees Scott Schwab and Derek Schmidt

Krystle Dalke  
Hinkle Law Firm  
1617 North Waterfron Parkway, Suite 400  
Wichita, KS 67206-6639  
Email: KDalke@email.com  
Attorney for Appellees Scott Schwab and Derek Schmidt

/s/ Pedro L. Irigonegaray  
Pedro L. Irigonegaray

RETRIEVED FROM DEMOCRACYDOCKET.COM